IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

United States of America,	)	Criminal No. 2:15-CR-236
	)	
vs.	)	**MOTION TO PREVENT**
	)	**DESTRUCTION OF EVIDENCE**
Bennito Roel Van Leeuwaarde	)	
	)	
Defendant.	)	
______________________________________	)	

Bennito Roel Van Leeuwaarde, through his attorney Assistant Federal Public Defender Alicia Vachira Penn, requests that the contents resulting from two email warrants issued in his case directed to Microsoft Corp. and Google Inc., and accompanied by a destruction order issued by United States Magistrate Paige Gossett on December 23, 2014, be preserved. Assistant United States Attorney Eric J. Klumb does not object to this motion. The basis for this motion is as follows.

Assistant U.S. Attorney Eric J. Klumb obtained multiple warrants to search the email accounts of the Defendant. Of these search warrants, the search warrants directed to Mircrosoft Corp. And Google Inc., had a destruction order issued by Judge Gossett on December 23, 2014 attached to them. The destruction order was intended to protect Mr. Van Leeuwaarde's privacy rights. It added the condition that for these two search warrants, any emails not deemed to be evidence by the Government were to be destroyed by the Government. At that time, the Defendant was not represented by counsel.

Because potential exculpatory evidence may exist in the emails resulting from these two search warrants which may be missed and consequently destroyed by the Government, the Defendant requests that the remaining email content which is not retained as direct evidence, but is subject to the destruction orders, be turned over to the Defendant, instead of being destroyed. This preserves the original intent to protect Mr. Van Leeuwaarde's privacy rights, and also preserves potential exculpatory evidence.

Respectfully submitted,

/s/ Alicia Vachira Penn
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